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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,253	03/27/2002	Fernando J. de la Fuente Escandon	U 013769-5	8585

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EXAMINER	
NGUYEN, TAI T	

ART UNIT	PAPER NUMBER
2632	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/009,253	ESCANDON, FERNANDO J. DE LA FUENTE	
	Examiner	Art Unit	
	Tai T. Nguyen	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-11* is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the number of lights" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the braking system" in line 9. There is insufficient antecedent basis for this limitation in the claim.

The dependency of claim 4 is unclear, it is assumed that claim is intended to depend upon claim 1.

Claim 5 recites the limitation "the signal" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tonkin (US 5,838,259) in view of King (US 6,426,706).

Regarding claim 1, Tonkin discloses a braking indicator (2, figures 1-2) of the lighting type located in the rear part of a vehicle (101, figure 14), comprising:

an electronic controller (3, figure 4) processing actual speed signal and vehicle's acceleration/deceleration signals of the vehicle provided from an accelerometer (32) and an opto-switch (34, figures 3-4; col. 7, line 7 through col. 8, line 35), and a segment of lights (2) which through proportionally between the vehicle's actual loss of speed and the number of lights (10-17; col. 4, line 41 through col. 5, line 55) and the rate at which they progressively light up conveys rapid information to other drivers of a tailgate vehicle (103, figure 14) on the actual loss of speed as a result of action on a brake system (81, figure 15; col. 12, line 34 through col. 14, line 19).

Tonkin discloses a tachometer can be used in an alternative to sensing vehicle speed (col. 19, lines 34-48) but fails to disclose an engine revolutions signal being processed by the electronic controller. King teaches a safety warning device (20, figure 1) mounted in a vehicle (21) has a microprocessor (24) for receiving signals from an accelerometer (40) and an engine sensor (50), wherein safety warning device (20) provides a fast braking situation via a display (42; col. 2, lines 1-30). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the engine sensor as taught by King in the system as disclosed by Tonkin for the purpose of measuring the engine revolutions of the vehicle in order to

provide a corrected indicative vehicle speed reducing information to the tailgate vehicle the deceleration of the leading vehicle.

Regarding claims 2-3, as shown in figures 1-2, Tonkin discloses the braking indicator (2) comprises a segment divided into two equal parts with a fixed number of lights (10, 12, 14, 16 and 11, 13, 15, 17) which converge from the center thereof when in operation, wherein the number of lights which light up and the rate at which they light up depends on the initial rate and the pressure applied on a braking switch (80, figure 3).

Regarding claim 4, Tonkin discloses a microprocessor processes the vehicle speed signal when the braking switch is activated in order to provide the number of lights lighting up progressively as the speed of the vehicle changes while braking (col. 4, line 60 though col. 5, line 32).

Regarding claim 6, as shown in figure 26, Tonkin discloses an ambient light sensing circuit (132) to determine the average ambient light in order to enable the microprocessor to regulate the intensity of the lights (10-17; col. 18, lines 13-22).

Regarding claim 7, Tonkin discloses the instant claimed invention except for: a switch for disconnecting the environmental light sensor and apply maximum brightness to the lights which light up. Tonkin discloses a regulating circuit (103) for reducing the intensity of the lights (10-17) under a low light level condition in order to prevent the driver of a following vehicle from being dazzled by the brightness of the light (col. 18, lines 17-22). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a switch to cut off power being supplied to the

environmental light sensor for the purpose of facilitating the maximum brightness of the light but not bright over the predetermined level in order to prevent the dazzling by the observer.

Regarding claim 8, Tonkin discloses a delay means (138, figure 26) for switching off a specific delay when force cease to be applied to the bake pedal (col. 19, lines 10-13).

Regarding claim 9, Tonkin discloses the segment of lights (2) which lights up in variable way may incorporate a zone that always lights up independently of braking parameter (figures 16-17; col. 13, lines 20-65).

Regarding claim 10, Tonkin discloses the electronic controller lighting up various combinations of the light segments when the vehicle is in the stationary position. It would have been obvious to one of ordinary skill in the art at the time the invention was made that all of the light segments could have been illuminated dependent upon the specific vehicles and desired visual appearance.

Regarding claim 11, Tonkin discloses the vehicle braking indicator illuminating a number of lights directly and inversely proportional to the vehicle speed (figures 1a-1d; col. 5, lines 1-14).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tonkin and King as applied to claim 1 above, and further in view of Blomenkamp et al. (US 3,634,792).

Regarding claim 5, Tonkin discloses the instant claimed invention except for: a derivative circuit for providing a triggering signal to the microprocessor from the motor revolution signal. Blomenkamp et al. teach a system for automatically sensing and indicating the acceleration/deceleration of a vehicle including a drive shaft sensor (11) for monitoring a rotation of the shaft, and a differentiator circuit (17) for differentiate a signal provided from the sensor to before activate a signal light (15), figure 2; col. 3, line 28 through col. 4, line 10), wherein the differentiator circuit can be replaced by a deviation circuit (figure 20, col. 12, lines 69-75). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the derivative circuit as taught by Blomenkamp et al. in the system as disclosed by Tomkin, as modified, for the purpose of providing an instantaneous engine revolution peak signal when the vehicle is stationary.

Response to Arguments

6. Applicant's arguments filed 03/22/04 have been fully considered but they are not persuasive.

Applicant argues that Tonkin does not teach the response of the display being quicker for lower initial speed. Examiner disagrees. Applicant has not claimed any specific illumination sequence based on the initial vehicle speed but rather claims the controller controlling the number of lights illuminated being proportional to the actual loss of speed. Tonkin teaches the deceleration speed of the vehicle being proportionally indicated by the illumination sequence (col. 5, lines 1-14).

Applicant argues that Tonkin does not teach the entire display being illuminated when the vehicle is in stationary position. Tonkin teaches various illumination displays to indicate when the vehicle is stationary (figure 2). One skilled in the art would use different displays to indicate when the vehicle is stationary dependent upon the specific type of vehicles upon which the display is used.

Applicant argues that Tonkin does not teach the progressive and intuitive display as claimed. Tonkin teaches the use of progressive and intuitive display to indicate braking force (col. 5, lines 1-14).

Applicant argues that Tonkin does not provide an RPM sensor. Tonkin teaches that an RPM sensor may be used to sense vehicle speed (col. 19, lines 34-48). King teaches the use of an RPM sensor and speed sensor to accurately determine vehicle speed. One skilled in the art would have been motivated to use both the RPM sensor and speed sensor to provide an accurate illumination sequence.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (703) 308-0160. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (703) 308-6730. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 7, 2004
Tai T. Nguyen
Examiner
Art Unit 2632

DANIEL J. WU
PRIMARY EXAMINER
6/7/04